

September 12, 2013

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Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Notice of Ex Parte: WC Docket Nos. 10-90 and WT Docket No. 10-208**
Application for Review and Petition for Reconsideration – Adak Eagle
Enterprises and Windy City Cellular

Dear Ms. Dortch:

On September 10, 2013, Monica Desai, counsel to Adak Eagle Enterprises, LLC (“AEE”) and Windy City Cellular, LLC (“WCC”), met with Priscilla Delgado Argeris, Legal Advisor to Commissioner Rosenworcel. Larry Mayes, Chief Executive Officer of AEE and WCC, joined the meeting by phone. On September 12, 2013, Ms. Desai met with Nicholas Degani, Legal Advisor to Commissioner Pai. Mr. Mayes and Andilea Weaver, Chief Operations Officer of AEE and WCC, also joined this meeting by phone. In both meetings, Ms. Desai discussed the Petition for Reconsideration and Application for Review filed by AEE and WCC,¹ as well as AEE’s and WCC’s replies to the Opposition filed by General Communication, Inc. (“GCI”).²

Ms. Desai emphasized that there was no actual opposition to the companies’ Petition for Reconsideration. While GCI submitted a filing styled as an opposition to both the Application for Review and Petition for Reconsideration, the “opposition” did not actually address, much less contest, any of the substantive points raised in the Petition for Reconsideration. As explained in the Petition for Reconsideration, AEE and WCC have taken drastic measures to comprehensively address each of the concerns raised by the Bureaus in the *Order* denying the companies’ waiver petitions.³

¹ See Application for Review of AEE and WCC, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Aug. 14, 2013) (“Application for Review”); Petition for Reconsideration of AEE and WCC, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Aug. 14, 2013) (“Petition for Reconsideration”).

² See Opposition of General Communication, Inc. to Adak Eagle Enterprises’ and Windy City Cellular’s Application for Review and Petition for Reconsideration, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Aug. 30, 2013) (“GCI Oppositions”); see also Reply to Opposition to Application for Review, AEE and WCC, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Sept. 9, 2013); Reply to Opposition to Petition for Reconsideration, AEE and WCC, WC Docket No. 10-90 and WC Docket No. 10-208 (filed Sept. 9, 2013).

³ See Petition for Reconsideration at 2; see also *Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, Petitions for Waiver of Certain High-Cost Universal Service Rules*, Order, 28 FCC Rcd 10194 (2013) (“Order”).

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With respect to the companies' Application for Review, Ms. Desai emphasized that AEE and WCC are perplexed by the Bureaus' decision-making from a policy perspective. GCI specifically stated it does not commit to replicating AEE's wireline service. And WCC has demonstrated that it serves more customers on Adak Island than GCI, covers a significantly larger area on the island than GCI, provides better quality service, and provides the only reliable 911 service on the island – all while taking less USF support than GCI. Yet the Bureaus seem to have no qualms handing service to the island over to GCI, and allowing GCI to collect the same amount or more USF support. Moreover, GCI currently does not serve significant portions of the study area beyond the downtown Adak area, does not have the infrastructure, facilities, or equipment on the island to do so, and certainly cannot guarantee build-out quickly enough such that no customers would lose service. Nevertheless, and equally stunning, the Bureaus rely on GCI's unenforceable "pinky promise" to provide hypothetical service at some point in the future as sufficient to qualify as a "terrestrial alternative" that is "available" under the Commission's waiver standard.⁴

Ms. Desai reiterated that the Commission has a responsibility to ask what GCI means when it says it provides 911 service. As explained in the Application for Review, GCI's 911 service is inadequate and unreliable.⁵ Unlike AEE, GCI does not help emergency responders identify and find 911 callers. Moreover, whereas AEE and WCC work closely with the City of Adak to provide prompt, reliable 911 assistance whenever requested – and have technicians on Adak Island to support its 911 service – GCI has a history of being unresponsive when asked by the City for assistance with its service and has no technicians on the Island to respond to service outages. Additionally, unlike AEE and WCC, GCI does not pay any 911 fees to support Adak's basic 911 system. This Commission in particular should find the poor quality of GCI's 911 service troubling, given its focus on ensuring the reliability of 911 service.⁶

Based on AEE's and WCC's current cash reserves, Ms. Desai explained that, without a fairly quick reversal of the denial *Order*, the companies will have to begin a complicated and expensive wind down process. This process will include seeking permission to shut down from the Commission as well as the Regulatory Commission of Alaska, negotiating with the Rural Utilities Service regarding their debt, and going through the customer notification process. Other factors that will impact how long the companies can last include fuel prices (which increase with each fuel barge shipment) and the cost of power (the power company has recently increased prices by 60%), in addition to other expenses that inevitably arise due to the unpredictable and volatile climate on Adak Island. AEE is exploring bankruptcy options, and will be providing additional details regarding this soon.

⁴ See Application for Review at 1-2; see also *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17633, ¶ 540 (2011).

⁵ See Application for Review at 5, Exhibit 4 (Second Declaration of Layton J. Lockett).

⁶ See Application for Review at 5.

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The poor, unreliable quality of service that consumers on Adak Island would be left with should AEE and WCC go bankrupt is further reflected in the attached declaration submitted by the Harbor Master at the Port of Adak, Elaine Smiloff. Ms. Smiloff emphasizes the crucial need for reliable cell service on Adak to receive calls from vessels when they are in distress, and her inability to rely on GCI service to receive critical calls because “GCI service is sporadic, reception is poor, and there are many dead spots in GCI’s service at the harbor.” She contrasts this with WCC’s service, which is “consistent with good reception.” She also explains that she lives in Kuluk, about 1 mile from GCI’s antenna, and even there, GCI service “is sporadic and reception is poor.” She recalled an incident when there was a search for an individual who was lost in blizzard conditions, who called for 911 help. During that emergency, “WCC phones worked while GCI phones were unable to get service.”

Respectfully submitted,



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Joseph Sorresso
Jamie Susskind
Julie Veach
Margaret Wiener

DECLARATION OF ELAINE SMILOFF

I, Elaine Smiloff, declare that the following is true and correct to the best of my knowledge and belief:

1. I am the Harbor Master for Adak Marine Services LLC in Adak Alaska. My duties as Harbor Master require that I have reliable cell service to receive calls from vessels when they are in distress or when they need assistance, such as medical or mechanical help.
2. I have both Windy City Cellular, LLC ("WCC") and General Communication, Inc. ("GCI") phone service.
3. At work, I am unable to rely on GCI phone service to receive critical calls because GCI service is sporadic, reception is poor, and there are many dead spots in GCI's service at the harbor. In contrast, WCC's service at the harbor is consistent with good reception.
4. I live in the Kuluk subdivision of the City of Adak in Alaska. Approximately half the population of Adak resides in Kuluk.
5. At home, I am unable to rely on GCI service because service is sporadic and reception is poor in Kuluk even though the subdivision is located approximately one mile from GCI's antenna. In contrast, WCC's service in Kuluk is consistent with good reception.
6. As an example of the unreliability of GCI's service, when searching for an individual lost in Adak during blizzard conditions, who called 911 for help, WCC phones worked while GCI phones were unable to get service.
7. Unlike WCC, GCI has no technicians on the island to respond to service outages. GCI's sales representative comes to Adak only periodically.
8. Due to GCI's unreliable service, poor reception quality, and lack of technical support on Adak, I strongly prefer WCC's service over GCI's service.

Executed on this 11 day of September 2013.



Elaine Smiloff
Harbor Master
Port of Adak
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